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No. 88-492

IN THE
Supreme Court of the United States
OCTOBER TERM, 1988

SHOSHONE TRIBE and NORTHERN ARAPAHO TRIBE OF THE WIND RIVER INDIAN RESERVATION,
Cross-Petitioners,
v.
THE STATE OF WYOMING, *et al.*,
Cross-Respondents.

On Cross-Petition for a Writ of Certiorari for the Supreme Court of Wyoming

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MEMORANDUM OF CITY OF RIVERTON, *ET AL.*, CROSS-RESPONDENTS, OPPOSING CROSS-PETITION FOR CERTIORARI

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This matter arises from the Federal reserved water right claims of the United States of America and the Shoshone and Arapaho Tribes for the Wind River Indian Reservation in Wyoming. The Wyoming Supreme Court issued its decision in part granting and denying the claims of the United States and Tribes on February 24, 1988. The Tribes, by cross-petition for certiorari, now seek this Court's review of the decision, alleging that the Wyoming Supreme Court improperly: (1) limited the purpose of the Reservation, (2) denied the Tribes a Federal reserved water right to use groundwater, (3) denied the Tribes' right to export reserved water for uses outside the Reservation, (4) misassigned the burden of

proof, (5) imposed an overly restrictive water use efficiency upon the Tribes' reserved water right uses, and (6) awarded an incorrect priority date to the reserved water right for certain reacquired lands.

These issues do not merit this Court's review upon certiorari. The decision of the Wyoming Supreme Court on the questions presented by the cross-petition is not in conflict, indeed it is consistent, with the decisions of this and other appropriate courts. In addition, the questions presented were not properly raised or decided below and involve factual issues relating solely to the Wind River Reservation. The cross-respondent State of Wyoming has filed a thorough and carefully documented brief in opposition to the Tribes' Cross-Petition. The undersigned parties adopt the positions and the arguments of the State of Wyoming and, for the reasons stated in its brief and in this memorandum, respectfully request that this Court deny the Cross-Petition for Writ of Certiorari filed by the Tribes herein.

Respectfully submitted this 21st day of November, 1988.

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